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Message Text

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ACTION ORM-02

INFO OCT-01 IO-13 ISO-00 DHA-02 SSO-00 CIAE-00 FBIE-00
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E.O. 11652: N/A
TAGS: SREF, UNHCR
SUBJ: TERRITORIAL ASYLUM CONFERENCE - PROPOSED NEW ARTICLE

1. AT ITS MEETING MORNING OF JANUARY 25, COMMITTEE OF WHOLE DECIDED THAT ALTHOUGH IT HAD COMPLETED ITS SPEAKERS LIST ON ARTICLE 2, IT WAS NOT READY TO VOTE ON PROPOSALS. FURTHER CONSULTATIONS WERE NECESSARY. COMMITTEE THEN DECIDED WITHOUT PREVIOUS WARNING TO BRING TO THE FLOOR THREE PROPOSALS FOR A NEW ARTICLE INHIBITING ASYLEE ACTIVITIES HOSTILE TO THE STATE FROM WHICH HE HAD FLED. A FOURTH SUCH PROPOSAL, BY BYELORUSSIA, WAS DISTRIBUTED BY THE SECRETARIAT DURING THE DISCUSSION, BUT NOT UNTIL AFTER MANY DELEGATIONS, INCLUDING USDEL, HAD ALREADY SPOKEN (A PROCEDURE UNUSUAL AT MOST CONFERENCES, BUT COMMON AT THIS ONE).

2. PROPOSED TEXTS ARE AS FOLLOWS:

(A) NIGERIA (A/CONF.78/C.1/L.2, ARTICLE 8) QUOTE.

WHERE A STATE GRANTING AN ASYLUM DISCOVERS THAT AN ASYLEE IS ENGAGING OR ENGAGES IN SUBVERSIVE ACTIVITIES
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AGAINST HIS STATE OF NATIONALITY, THE HOST COUNTRY, THE COUNTRY OF HIS FORMER DOMICILE OR HABITUAL RESIDENCE, THAT STATE GRANTING ASYLUM SHALL HAVE A RIGHT TO TERMINATE THE STATE OF ASYLUM IN ANY APPROPRIATE MANNER IT CONSIDERS FIT. END QUOTE.

(B) BANGLADESH (L.59) INSERT THE FOLLOWING NEW ARTICLE

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AFTER ARTICLE 2: QUOTE.

STATES GRANTING ASYLUM SHALL NOT PERMIT ASYLEES, TO THE EXTENT TO WHICH IT IS POSSIBLE UNDER THEIR LAW, TO ENGAGE IN ACTIVITIES CONTRARY TO THE PURPOSES AND PRINCIPLES OF THE UNITED NATIONS AS SET OUT IN THE CHARTER. END QUOTE.

(C) AUSTRIA (L.61) QUOTE:

A PERSON ENJOYING THE BENEFITS OF THIS CONVENTION HAS DUTIES TO THE COUNTRY GRANTING ASYLUM, WHICH REQUIRE IN PARTICULAR THAT HE CONFORM TO ITS LAWS AND REGULATIONS. END QUOTE.

(D) BYELORUSSIAN SSR (L.79) QUOTE.

EVERY PERSON WHO IS GRANTED ASYLUM SHALL COMPLY WITH THE LAWS OF THE COUNTRY GRANTING ASYLUM AND SHALL REFRAIN FROM ANY ACTIVITY WHICH MIGHT IMPAIR THE INTERESTS OR SECURITY OF THAT COUNTRY. STATES SHALL HAVE THE RIGHT TO EXPEL ANY PERSON WHO VIOLATES THEIR LAWS. END QUOTE.

3. USDEL SPOKE AGAINST NIGERIAN AND BANGLADESH TEXTS, AND GAVE UNENTHUSIASTIC SUPPORT TO AUSTRIAN TEXT. TEXT OF US STATEMENT IS NECESSARILY UNPOLISHED SINCE IT WAS WORKED ON DURING MEETING WHILE USDEL WAS ALSO ATTEMPTING TO FOLLOW STATEMENTS OF SPONSORS.

QUOTE. BOTH BANGLADESH PROPOSAL IN L.59 AND NIGERIAN
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PROPOSAL IN L.2 WOULD SUBJECT ASYLEES TO A SPECIAL LEGAL REGIME DIFFERENT FROM THAT APPLICABLE TO OTHER RESIDENTS OF THE COUNTRY OF ASYLUM. THIS DISCRIMINATION IS REPUGNANT TO MY COUNTRY'S LEGAL SYSTEM. MOREOVER THE REFERENCE TO "SUBVERSIVE ACTIVITIES" IN NIGERIAN PROPOSAL MIGHT BE CONSTRUED TO EXTEND TO THE RIGHTS OF SPEECH AND PUBLICATION WHICH ARE CONSTITUTIONALLY PROTECTED.

IN THE BANGLADESH PROPOSAL THERE IS ADDITIONAL DEFECT IN THAT THE PURPOSES AND PRINCIPLES OF UN CHARTER DO NOT APPLY TO PERSONS; THEY ARE ADDRESSED TO STATES. WE CANNOT SUPPORT EITHER PROPOSAL.

THE AUSTRIAN PROPOSAL IS NOT A MAJOR ONE, BUT IT IS USEFUL AND DOES NOT PRESENT LEGAL PROBLEMS. IT CORRESPONDS TO ARTICLE 2 OF THE 1961 REFUGEE CONVENTION. THE USDEL SUPPORTS IT. END QUOTE.

4. GENERAL TREND OF DEBATE WAS THAT AN ARTICLE RES-

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TRICTING ACTIVITIES OF ASYLEES AGAINST COUNTRIES WHICH HAD PERSECUTED THEM WAS NECESSARY. PROPOSAL THAT FOUR SPONSORS FORM WORKING GROUP TO PRODUCE COMMON TEXT WAS WIDELY URGED. USDEL WAS CONCERNED BY THIS PROPOSAL SINCE AUSTRIANS MIGHT NOT SURVIVE PRESSURE IN WORKING GROUP WHERE THEY WERE ISOLATED. THIS CONCERN WAS RELIEVED WHEN SOVIET REPRESENTATIVE (UNABLE TO KEEP QUIET WHEN WINNING) INTERVENED TO PROPOSE ORAL AMENDMENT TO BANGLA-DESH PROPOSAL, DELETING THE WORDS "TO THE EXTENT TO WHICH IT IS POSSIBLE UNDER THEIR LAW." US IMMEDIATELY INTERVENED TO INDICATE THAT IF SPONSORS ACCEPTED THE DELETION USDEL WOULD REINTRODUCE THE DELETED PASSAGE FROM THE FLOOR. AFTER SOMEWHAT EXCITED DIALOGUE, IT WAS DECIDED THAT BOTH US AND USSR WERE AT LEAST POTENTIAL SPONSORS OF PROPOSALS, AND COULD PARTICIPATE IN SPONSORS' WORKING GROUP, SCHEDULED FOR 9:30 A.M. JANUARY 26.
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5. USDEL WILL TRANSMIT TEXT OF NEW ARTICLE, EMERGING FROM SPONSORS' WORKING GROUP, AS SOON AS AVAILABLE.

6. COMMENT: TACTICAL ERROR OF SPONSORS IN SETTING THIS PROPOSAL UP AS SEPARTATE ARTICLE, RATHER THAN DRAFTING IT AS PART OF EXISTING ARTICLE, MAY ENABLE US TO DEFEAT IT IN PLENARY, WHERE WE NEED ONLY A BLOCKING THIRD. HAD IT BEEN MADE PART OF ANOTHER ARTICLE WE WOULD NEED MAJORITY TO GET A SEPARATE VOTE ON IT.CATTO

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Sent Date: 26-Jan-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
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Disposition Approved on Date:
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Subject: TERRITORIAL ASYLUM CONFERENCE - PROPOSED NEW ARTICLE
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